

RONALD C. AGEL

IBLA 83-126

Decided June 10, 1983

Appeal from decision of the Wyoming State Office, Bureau of Land Management, rejecting high bids for eight parcels in competitive oil and gas lease sale. W 82420, et al.

Set aside and remanded.

1. Oil and Gas Leases: Competitive Leases -- Oil and Gas Leases:
Discretion to Lease

The Secretary of the Interior has the discretionary authority to reject a high bid in a competitive oil and gas lease sale where the record discloses a rational basis for the conclusion that the amount of the bid was inadequate. The explanation provided must inform the bidder of the factual basis of the decision and must be sufficient for the Board to determine the correctness of the decision if disputed on appeal.

2. Oil and Gas Leases: Competitive Leases -- Oil and Gas Leases:
Discretion to Lease

Where the high bid in a competitive oil and gas lease sale is rejected as inadequate, and on appeal the bidder raises considerable doubt whether the bid is, in fact, inadequate, and the record fails to disclose a sufficient factual basis for the conclusion of inadequacy, the decision rejecting the bid will be set aside and the case remanded to BLM for reconsideration of the bid.

APPEARANCES: Ronald C. Agel, pro se.

OPINION BY ADMINISTRATIVE JUDGE IRWIN

Ronald C. Agel appeals from the October 6, 1982, decision of the Wyoming State Office, Bureau of Land Management (BLM), which rejected his

high bids for eight parcels at the August 18, 1982, competitive oil and gas lease sale. Appellant bid \$1 per acre for parcels 7, 8, 9, 10, and 13 (W 82420 through W 82423, and W 82426); \$2 per acre for parcel 21 (W 82434); and \$10 per acre for parcels 24 and 25 (W 82437 and W 82438).

The BLM decision stated that the Minerals Management Service (MMS) had indicated that appellant's bids did not represent fair market value. The decision noted that five of the parcels are in a producing field and three others are adjacent to producing units. ^{1/} The decision then stated that \$15 per acre would be the lowest acceptable bid for these parcels, based on MMS studies.

In his statement of reasons for appeal, appellant stated that the parcels are worth the amount bid because that was the amount someone was willing to pay. He stated that his bid took into account the tracts' proximity to producing fields. He objects to the use of a minimum bid without prior notice.

[1, 2] The Secretary of the Interior has the discretionary authority to reject a high bid for a competitive oil and gas lease as inadequate. 30 U.S.C. § 226(b) (1976); 43 CFR 3120.3-1. This Board has consistently upheld that authority where there was a rational basis for the conclusion that the highest bid did not represent fair market value for the parcel. Snyder Oil Co., 69 IBLA 259 (1982); Harry Ptasynski, 48 IBLA 246 (1980).

MMS is the Secretary's technical expert in matters concerning geologic evaluation of parcels offered at a sale of competitive oil and gas leases. The Secretary is entitled to rely on MMS' reasoned analysis. L. B. Blake, 67 IBLA 103 (1982). When the Secretary's delegate, BLM, relies on MMS analysis in rejecting a bid as inadequate, it must ensure that a reasoned explanation in the record supports the decision. Southern Union Exploration Co., 51 IBLA 89 (1980). Absent such an explanation, if a bid is not clearly spurious, the Board has consistently held that the decision must be set aside and the case remanded for compilation of a more complete record and readjudication of the bid. Southern Union Exploration Co., 41 IBLA 81 (1973). The Board explained the reasons for this in Southern Union Exploration Co., 51 IBLA at 92:

[T]he appellant is entitled to a reasoned and factual explanation for the rejection of its bid. Appellant must be given some basis for understanding and accepting the rejection or alternatively appealing and disputing it before this Board. The explanation provided must be a part of the public record and must be adequate so that this Board can determine its correctness if disputed on appeal. Steven and Mary J. Lutz, 39 IBLA 386 (1979); Basil W. Reagel, 34 IBLA 29 (1978); Yates Petroleum Corp., 32 IBLA 196 (1977); Frances J. Richmond, 24 IBLA 303 (1976); Arkla Exploration Co., 22 IBLA 92 (1975).

^{1/} Of course, all of the parcels are considered to be within the known geologic structure of a producing oil or gas field.

The record indicates that BLM did attempt to extract from MMS the necessary explanation for MMS' rejection recommendation. However, MMS provided only the information noted in the decision. MMS provided its conclusion that the bids were too low, but no supporting analysis or factual basis for its conclusion. 2/

The Board cannot determine the correctness of the BLM decision on the basis of the present record. This does not mean the Board would substitute its judgment for that of the Department's experts in determining fair market value for a parcel, but rather that the Board requires sufficient facts and analysis to ensure that a rational basis for the determination is present. M. Robert Paglee, 68 IBLA 231 (1982). Accordingly, we must remand this case for readjudication, giving particular attention to the \$10 per acre bids for parcels 24 and 25. If BLM again decides to reject appellant's bids, BLM shall set forth the reasons, including the presale evaluation, so that the appellant may address them and the Board may consider them if there is an appeal. Snyder Oil Co., supra.

2/ On Sept. 27, 1982, BLM's Wyoming Chief of Lands and Minerals Operations wrote a memo to the MMS Deputy Minerals Manager for Resource Evaluation at Casper, Wyoming. He noted that with respect to the subject tracts, all that MMS had provided was MMS' conclusory declarations that "the bids were unreasonably low" and much lower than the estimate. He noted that several decisions by the Interior Board of Land Appeals had required a reasoned explanation of decisions to reject high bids, and he requested substantiation of the factual basis for the MMS recommendations.

In reply, the MMS Deputy Minerals Manager simply restated that "we feel the bids were too low," adding a few words about the proximity of the several tracts to producing units, and pointing out, "Also, these tracts received no competition (one bid only) * * *." He then stated:

"No bidder on these tracts has protested, filed an appeal on these rejections, nor formally indicated any intentions of such action. Since the Interior Board of Land Appeals (IBLA) has not been requested to review any rejections, we question why such documentation/justification should be required in advance.

"We hope that the information as specified herein will suffice. If additional data is needed to answer an IBLA appeal or court action, please notify us."

BLM, not MMS, is the initial decisionmaker in such cases. The role of MMS (and its predecessor, the Conservation Division, Geological Survey) was to make its recommendation. BLM properly recognized that in order to make the decision, it needed not only the recommendation, but an understanding of the reasons for the recommendation. Where BLM's request for such supporting information was flatly refused, this Board has reversed the BLM decision as arbitrary and capricious. Steven & Mary J. Lutz, supra. This case does not represent such an absolute refusal on the part of MMS, but rather a failure to appreciate BLM's function and its consequent need of the information, so we set aside and remand it.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is set aside and the case remanded for further action consistent with this opinion.

Will A. Irwin
Administrative Judge

We concur:

Edward W. Stuebing
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

